

### **REMARKS**

This responds to the Office Action mailed on May 19, 2005, and the references cited therewith. Claims 10 and 20 are amended, and claim 22 is canceled. Claims 10-21, 23-26, and 29-32 remain pending.

#### **§102 Rejection of the Claims**

Claims 10-26 and 29-32 were rejected under 35 U.S.C. § 102(e) as being anticipated by Franck et al. (U.S. Patent No. 6,529,765 B1). Applicant does not admit that Franck is indeed prior art and reserves the right to swear behind this reference at a later date. Nevertheless the Applicant believes that the pending claims are distinguishable from the reference for at least the following reasons.

The rejection states that Franck discloses, “an actuator coupled to the local adjustment device, and a control module 580 in remote communication with the actuator and in communication with the imaging device 560 to alignment the insertion axis with the target location.”

Franck appears to show a computer workstation 580. Franck also appears to show a pivoting collar 840 coupled to a guidance fixture 710. However, Applicant is unable to find in Franck, an actuator coupled to the local adjustment device, wherein the actuator is spaced apart from the local adjustment device to enable location of the actuator outside an imaging region of the imaging device while the local adjustment device is within the imaging region of the imaging device.

In contrast, claim 10 as amended includes an actuator coupled to the local adjustment device, wherein the actuator is spaced apart from the local adjustment device to enable location of the actuator outside an imaging region of the imaging device while the local adjustment device is within the imaging region of the imaging device. Further in contrast, claim 20 as amended includes coupling an actuator to the local adjustment device, wherein coupling the actuator to the local adjustment device includes remotely coupling the actuator to the local adjustment device. Support for these amendment can be found in the specification and Figures in general, and at least in one example, Figure 6A.

Because the Franck reference does not show every element of Applicant's independent claims, a 35 USC § 102(e) rejection is not supported. Reconsideration and withdrawal of the rejection is respectfully requested with respect to Applicant's independent claims 10 and 20. Additionally, reconsideration and withdrawal of the rejection is respectfully requested with respect to the remaining claims that depend therefrom as depending on allowable base claims.

§103 Rejection of the Claims

Claims 29 and 32 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Franck et al. (U.S. Patent No. 6,529,765 B1) as applied to claims 10, 30 and 31 above, and further in view of Truwit (U.S. Patent No. 6,206,890 B1). Claims 18, 19 and 23-26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Franck et al. (U.S. Patent No. 6,529,765 B1) as applied to claims 10 and 20 above, and further in view of Lee et al. (U.S. Patent No. 3,893,449).

Applicant respectfully submits that the additional references of Truwit and Lee fail to cure the rejection based on Franck for at least the reasons outlined above.

Because the cited references, either alone or in combination, do not show every element of Applicant's independent claims, a 35 USC § 103(a) rejection is not supported by the references. Reconsideration and withdrawal of the rejection is respectfully requested with respect to Applicant's independent claims 29, 32, 18, 19 and 23-26.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6944 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.


Respectfully submitted,

GERALD W. MILLS ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.  
P.O. Box 2938  
Minneapolis, MN 55402  
(612) 373-6944

Date 8-19-05

By   
David C. Peterson  
Reg. No. 47,857

**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 19<sup>th</sup> day of August, 2005.

PATRICIA A. HULTMAN

Name



Signature